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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/913,518	11/04/1997	JEAN-PAUL DEBALME	1247-709-3VF	7024

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09/03/2002

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EXAMINER

AFTERGUT, JEFF H

ART UNIT	PAPER NUMBER
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1733

35

DATE MAILED: 09/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

08/913,518

Applicant(s)

DEBALME ET AL.

Examiner

Jeff H. Aftergut

Art Unit

1733

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 August 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☒ they raise the issue of new matter (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

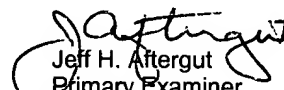
Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1, 5-14.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


Jeff H. Aftergut
Primary Examiner
Art Unit: 1733

Continuation of 2. NOTE: As set forth in MPEP 2163.07: "Where a non-English foreign priority document under 35 U.S.C. 119 is of record in the application file, applicant may not rely on the disclosure of that document to support correction of an error in the pending application. *Ex parte Bondiou*, 132 USPQ 356 (Bd. App. 1961). This prohibition applies regardless of the language of the foreign priority documents because a claim for priority is simply a claim for the benefit of an earlier filing date for subject matter that is common to two or more applications, and does not serve to incorporate the content of the priority document in the application in which the claim for priority is made. This prohibition does not apply in a situation where the original application is in a non-English language (37 CFR 1.52(d)), or where the original application explicitly incorporates a non-English language document by reference." The original application in this file was filed in English. While it is recognized that the English copy was a translation, it was not a translation as set forth in 37 CFR 1.52(d) which states "If a nonprovisional application is filed in a language other than English, an English language translation of the non-English language application, a statement that the translation is accurate, and the processing fee set forth in § 1.17(i) are required." Here the original application was not filed in a foreign language with a statement that the translation was an accurate translation and the appropriate fee. It should additionally be noted that the application did not include an incorporation by reference of the foreign application. Accordingly, the language presented in the amendment (void free) is deemed new matter. Such language additionally would require further search and/or consideration relative to the prior art of record. Additionally, the presentation of the language does not simplify the issues of record because of the question of support under 112, first paragraph addressed above.

Continuation of 5. does NOT place the application in condition for allowance because: one skilled in the art would have understood that the reference to Francis did not exclude compression to the point of production of a non-porous end product as addressed in the Final rejection.